

**Notice of Allowability**

Application No.

10/718,077

Examiner

Jody L. Karol

Applicant(s)

DICKASON ET AL.

Art Unit

1627

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/13/2010 and 4/30/2010.
2. ☒ The allowed claim(s) is/are 1-3, 6-9, 11-21, and 47-49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 4/13/2010
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20100503
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

/Yong S. Chong/  
Primary Examiner, Art Unit 1627

#### **DETAILED ACTION**

Receipt is acknowledged of applicant's Amendments/Remarks filed on 3/29/2010, 4/13/2010, and 4/30/2010. Claims 4-5, 10, and 22-46 are cancelled. Claims 47-50 are newly added. Claims 1-3, 6-9, 11-21, and 47-50 are pending and currently under consideration.

The Examiner acknowledges the amendment to the instant specification, incorporating the subject matter of the instant claim 49 into the specification. Claim 49 contains the same subject matter as cancelled claim 26, and thus no new matter is added by virtue of said amendment.

The amendment to claim 49 to correct a typographical error is also acknowledged.

#### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Rona Nardone on 4/29/2010.

The application has been amended as follows:

Please cancel claim 50.

***Reasons for Allowance***

2. The following is an examiner's statement of reasons for allowance:

Claims 1-3, 6-9, 11-21, and 47-48 are directed to compositions comprising a fused pyrrolocarbazole with the formula as shown in the instant claim 1, at least 20% (w/w) of polyoxyl stearate, and at least one polyethylene glycol. Claim 49 is directed to a method of treating acute myelogenous leukemia comprising administering a composition according to claim 1 to a subject in need thereof.

The closest prior art is due to Dickason et al. (US 6,200,968 B1 and US 6,660,729 B1). Cephalon, Inc. is the assignee for the instant application, US 6,200,968 B1 and US 6,660,729 B1. A properly executed terminal disclaimer for each patent has been filed on 12/10/2009 to overcome the prior double patenting rejections of record, placing the claims in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Claims 1-3, 6-9, 11-21, and 47-49 are allowed.

***Correspondence***

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jody L. Karol whose telephone number is (571)270-3283. The examiner can normally be reached on 8:30 am - 5:00 pm Mon-Fri EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Jody L. Karol/

Examiner, Art Unit 1627

/Yong S. Chong/

Primary Examiner, Art Unit 1627